

BY MADVERSIONS
ON A
REVEREND PRELATE'S
REMARKS

UPON THE

Great Britain - George II
BILL

Now depending in

PARLIAMENT.

ENTITLED

*A Bill to prevent Suits for Tythes, where
none, nor any Composition for the
same, have been paid within a cer-
tain Number of Years.*

By a Member of the *House of Commons.*

To which are prefix'd the REVEREND PRELATE'S
Remarks.

The SECOND Edition, with ADDITIONS.

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REMARKS upon a BILL now depending
in PARLIAMENT, entitled, *A Bill to
prevent Suits for Tythes, where none, nor
any Composition for the same, have been
paid within a certain Number of Years.*

By a Reverend PRELATE.



THE Law concerning *Exemption*
from Tythes as it stands at present,
is thus: If Tythe be demanded
by the Incumbent, and the Pro-
prietor of the Lands pleads an
Exemption, the Incumbent insists
upon *Common Right* as the general Rule of Law;
and it rests upon the Proprietor to prove the
Exemption. And there is great Reason it should
be so; because in all Cases, whoever pleads *Ex-
emption* from a general Rule, is bound to assign
the special Grounds and Reasons of such Exemp-
tion: And because in this particular Case, it is
supposed that the Proprietor of the Lands has
the Evidences in his Hands; and it cannot be
supposed that he or his Ancestors would pay for
an Estate as Tythe free, without clear Evidence
that it was so; when they knew the Law to be
such, that an Incumbent would have it in his
Power at any Time to demand Tythe of Com-
mon Right, and must prevail, if legal Evidence
of the Exemption could not be produced.

But by this new Bill, the Proof shall not rest
upon the Proprietor of the Lands, who is supposed

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to have the Evidences of it in his Hands, and he and his Family concerned in Interest to preserve them ; but the Proof ~~of~~ that Payment has been made within the Term of Years to be fixt by this Bill, if it pass into a Law, is to rest upon the Incumbent ; who comes a Stranger to the Parish, unacquainted with what was done in the Times of his Predecessors, and not like to be assisted by the Parishioners, considering the Interest they have, and the Influences they are oft times under.

In this Way, Exemptions may be easily set up for all Lands, the Tythe whereof has not been taken in kind, but (which is the most usual Method) paid in Money, whether as a *Modus*, or upon the Foot of a private Agreement between the Incumbent and Proprietor. For the Receipts for the Money are in the Hands of the Proprietor, and the succeeding Incumbent may know nothing of any Agreement made ; or, if he do, he cannot oblige him to produce the Receipts in Proof of it. Whereas the Law, as it stands at present, by which he is enabled to sue for Tythe of *Common Right*, and prevails, if the Proprietor do not prove the Exemption, effectually secures the Clergy against all such Frauds and Impositions, and nothing else can effectually secure them.

Many of the Rectories Improprate belonging to Bishops, Deans and Chapters, and other Ecclesiastical Persons, and to the Colleges in the two Universities, are, and have long been, in the Hands of Lords of Mannors, or other Proprietors of Lands within the same Parishes ; which Leases descend from Father to Son, and enable them to let their own Estates Tythe-free. And all Lands, which by reason of such Unity of Possession, shall have paid no Tythe within the Term to be limited by this Act, are exempted by it from paying Tythe *for ever*.

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Some of the Religious Orders, particularly the *Cistercians*, were privileged from paying Tythe of Lands *while they continued in their Occupation*, and not otherwise. And though all the Lands of the Religious came into the Hands of the Crown, and from the Crown to the Grantees, in the same *Manner* as the Religious enjoyed them; yet by this Bill, if the Grantee of the Crown shall have kept such Lands in his own Occupation, during the Term therein to be limited, all Incumbents are deprived for ever of the Right they had to Tythe, when such Lands should be occupied by a *Tenant*.

Warrens, Woodlands in particular Countries, and Lands that have lain waste, from all which Tythe would be due, if converted into Arable or Pasture, will be entitled to a *perpetual Exemption* by this Act; and it may have the like Effect in many other Cases, not now foreseen.

If it be candidly considered, by how many undue Ways Exemptions may and do grow, we shall see no Reason to take from the Clergy any Advantages against them, which the Law gives as it stands at present. Some Difficulties have been mentioned already, which cannot be avoided by Incumbents, though never so careful, and wholly free from Restraints and Influences of all Kinds; I mean their coming Strangers to their Livings, and the Difficulty of procuring Evidence among the Parishioners. But besides these, the Clergy, who come in unaccustomed to secular Affairs, are more liable to be imposed upon than others; and some of them are not so careful of the Rights of their Church, as might be wished, for want of reflecting that they are not barely concerned in Interest for their own Time, but are moreover the Guardians of those Rights for the Use of their Successors. Some are unactive and sedentary, and care not to enter into Enquiries,

ries, which may lead them into troublesome Law-Suits: Others are not in Need, and foreseeing the Uneasiness they shall raise to themselves by contesting Exemptions, sit still and acquiesce: Others are poor, and have not Money to support Contests with rich Men, and so *must* acquiesce: Many are known to come in under the Restraint of general Bonds of Resignation, with heavy Penalties, and must either go on to indulge the Estate of the Patron, or be ruined: Many Livings are given to the Sons or near Relations of Patrons, who are naturally disposed to be respectful to the Estate of the Family; and if others also do not the same, they are sometimes thought very ungrateful for the Favour of their Presentation: Many of the poorer Livings all over *England* are held by Sequestration, without either Institution or Induction; and the Clergy who officiate in them, not being properly Incumbents, cannot bring Suits for the *Right* to Tythe; and if an Incumbent come in, who is willing and able to do it, he will be wholly precluded by this Act after a certain Number of Years.

It is easily seen, how Discontinuances of Payment may have grown by any one or more of these Ways; and it would be very unreasonable, that such Discontinuances, to which *all the Tythes in the Kingdom* are expos'd, should be turn'd into perpetual Exemptions, for no other Reason, but because it may now and then be doubtful, and need the Determination of the Law, whether a *particular* Parcel of Land is really exempt or not. And it would be extremely hard, that the Livings and the Successors in them, should be made to suffer without any Possibility of Remedy; by the Poverty; Indolence, or unhappy Compliances of their Predecessors; who may have satisfied their Minds with this, That it would be in the Power of their Successors, *at any Time*, to do Right to themselves
and

and their Church against pretended Exemptions, by exerting their Claim to Tythe of *Common Right*; little suspecting, that this ancient Right would be extinguished by any future Law, when the standing Rule of all Courts, Civil and Ecclesiastical, since the *Reformation* as well as before; had been, that no Plea *de non decimando* ought to be admitted; and when it appeared not, that the *Justice* and *Equity* of that Rule had at any Time been called in Question by the Legislature.

Tho' the present Bill goes no further than to establish a perpetual Exemption upon a *Past* Discontinuance of Payment of Tythe; yet as the several *Causes* and *Occasions* of those Discontinuances hitherto, will still remain and have the like Effect, (particularly, the insisting upon general Bonds of Resignation, is well known to be far more common, and more openly and avowedly practised, of late Days, than ever;) so will there be the same Pretence *hereafter* for new Acts to establish Exemptions, under Colour of Loss of Evidence, and preventing Law Suits, and quieting Possessions; and, in this way, there must be a gradual Diminution of the Maintenance of the Clergy in every Generation, if they be deprived of the Benefit they now have, of claiming Tythe by *Common Right*.

From these Considerations, and from the manifest Disadvantages the Clergy lie under in being far less able to *know*, and *prove*, and *assert* their *Rights*, than those who enjoy Estates by *Inheritance*; no Statutes for *Limitation* of Suits have ever been extended to the Revenues of the Church, but the Successors have been hitherto left at full Liberty to *assert* their Rights, at any Time. So that it is very groundlessly insinuated in the Preamble to this Bill, That the Statute of *Edw. 6th*, on which it pretends to found itself, had created a Prescription of Forty Years; so as to debar the Clergy of those Days from claiming Tythe in any *other* Manner than

than they had been paid within that Term, and from *claiming* any at all, if Lands had not *paid* any at all for so long Time. For the Words of that Act are, that all Prædial Tythes shall be paid, *in such Manner and Form as hath been of Right yielded and paid within Forty Years next before the making of this Act*, OR OF RIGHT OR CUSTOM OUGHT TO HAVE BEEN PAID. The Meaning of that Retrospect of *Forty Years* was plainly this, that in the Infancy of the *Reformation* many of the People were unwilling to pay Tythes to the Protestant Clergy, and did not believe they had any Title to them; as is plainly intimated in the Preambles to two former Acts for the Payment of Tythes, 27 *H. 8. c. 20.* and 32 *H. 8. c. 7.* Against whom it is plainly the Intention of this Act, to provide that they shall be obliged to pay Tythes to the *Protestant* Incumbents, as punctually as they had paid them to the *Popish*; and if they do not, that they shall be liable to Temporal Coercion, as well as Ecclesiastical Censures. So that the Act of *Edw. 6.* was made wholly in *Favour* of the Clergy, and to facilitate the Recovery of their Tythes; and then, as to the Right, tho' no Tythe at all had been actually paid within that Term, the Power of suing for it is fully reserved by the additional Words, OR OF RIGHT OR CUSTOM OUGHT *to have been paid* — And, in a subsequent Clause (Sect. 4.) all Exemptions and Discharges from Tythe, are left to stand or fall according to the Laws in being, before that Act; Provision being only made, that if they were really exempt before, they should not be made liable to pay Tythe by any thing in the Act. Whereas the present Bill is wholly in *Favour* of the Parishioners *against* the Clergy, and takes from Incumbents the known and establish'd Privilege of claiming Tythe of *Common Right*; and, after a Discontinuance of Payment for a certain

certain Time, utterly *deprives* them of their Right, even though they should be able to prove it by Records and Evidences of undoubted Authority.

But if that Retrospect to the Forty Years *before* the Act of *Edward* the VIth, had been made the *only* Rule of the Clergy's Right; it had been a much more favourable Rule, than the like, or even a larger Term of Years before the making of this Act, would be. Every one knows, in what View Tythes were considered in the Times to which that Retrospect reaches, and how Religious the People were in paying them to the full. But it is to be feared, that in later Days that ancient Principle has lost much of its Force. There is one whole Sect among us, who plead Conscience for refusing to pay any Tythe at all. Another Sort, however conscientious in not converting Tythes to their own Use, do certainly think them better employ'd towards the Maintenance of Popish Priests than Protestant Incumbents. And the People, in general, are not easily brought to feel the Force of that unanswerable Argument for the Clergy's Right to Tythe, That they or their Ancestors purchased no more than *nine* Parts-

One great Pretence for this Bill, is the *Loss of Evidence*; namely, Original Grants from the Crown, and other Evidences relating to them. Concerning which, it may well be supposed in general, that Families are very *careful* in preserving the Evidences of their Estates; and what preserves the Evidence of the Estate exempted, preserves also the Evidence of the Exemption. These are, of course, transmitted from Father to Son; and, being Grants from the Crown, were to be recorded and preserved in Chancery, and may probably be found there; and in many Cases, sufficient Evidence, whether Lands are exempt or not exempt, may be had from the Office of *Augmentation*, which is open to every Subject, and contains the State of

the Lands and Improprate Tythes of many Religious-houses (as they came to the Crown, and by Consequence to the Grantees) under the Names of the Houses to which they belonged, and with Accounts of their being in Lease or manual Occupation at the Time of the Dissolution, upon which Circumstances, the Point of Exemption or No-Exemption chiefly depends.

All such Records, in what Hands soever, if fairly produced, may be Proofs *against pretended Exemptions*, as well as Proofs *for Real ones*; and yet this Bill not only puts the Proprietors of the Lands under no Obligation to declare in a legal Manner that the Evidences are really lost, or to produce them, if not lost; but, after a Term of Years in which no Tythe has been paid, the Successor of one or more Incumbents who were indolent, or ignorant of their Rights, or under undue Restraints from claiming them, is utterly debarred by it from claiming Tythe, tho' he should be able to prove never so clearly from Records to which he can have Access, that there *could* be no legal Exemption.

As to the other Pretence for this Bill, *viz.* The preventing Differences and Law-Suits, a Freedom from them, and a quiet and peaceable Enjoyment of our own, are certainly very great Blessings; and the greater the Blessings are, the greater is their Guilt, who will not suffer their Neighbours to enjoy them on any Terms, but the giving up their just Rights, and the necessary Subsistence of themselves and their Families. But on which Side the Breach of Peace and Friendship, as occasioned by Suits for Tythes, does chiefly lie, appears from Calculations that have been made by Practitioners in the Court of Exchequer, which show that the Instances wherein the Prosecutors for Tythes have *failed*, bear no kind of Proportion to the Number of Instances in which they have *prevailed*; and, as to the *Number* of Suits, many of them have been
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the Suits of Lay Impropiators, and not Parochial Incumbents. So far are the Clergy from being justly chargeable either with Multitudes of Prosecutions, or with bringing such Suits as have been deemed Vexatious or Frivolous: The Truth lies on the other Side, That thro' the Unwillingness or Inability of some to engage in troublesome and expensive Law Suits, and thro' the Restraints and Influences which others have been under, the Rights of their Churches have greatly suffered, and by Degrees been lost.

The same Reasons that are alledged for establishing Exemptions, will hold equally for establishing Modus's, or a fixt Payment in Money in lieu of Tythes, *viz.* The preventing Disputes, and the supposing ancient Real Compositions to be lost; which two Arguments must prevail according to the Reasonings in favour of the present Bill, altho' the Incumbent should be able to make the clearest Proof of the Payment of Tythe in Kind, or a Variation of the Payment of Money, by living Witnesses or other undeniable Evidence; in case that Proof be ever so little beyond the Time limited. Which ought to be a Warning to all Incumbents, against suffering the self-same Payments or Methods of Payment to go on too long; and to guard against Modus's, by taking their Tythes sometimes in Kind, or at least by a Variation of the Payment in lieu of them, and by carefully transmitting the Accounts of such taking in Kind, and of such Variation, to succeeding Incumbents.

Animadversions on the preceding REMARKS.

THE Reverend Prelate first lays down the Law as, he says, it stands at present; I wish that he would vouchsafe to lay down REASON.

When a Bill depends in Parliament, the Legislature are to consider *what ought to be Law*, and not *what is Law*; for if they were bound by Customs or Statutes, they would be useless to the People, who often find themselves aggrieved by the Usage and Institutions of former Times, against which they can have no Relief, but from the Legislative Power.

The *Bishop* observes, that as the Law now stands, "If *Tythe* be demanded by the Incumbent, and the Proprietor of the Lands pleads an Exemption, the Incumbent insists upon *Common Right*, as the *general Rule* of Law, and it rests upon the Proprietor to prove the Exemption." And, he thinks, there is great Reason it should be so; "because in all Cases, who ever pleads an Exemption from a general Rule, is bound to assign the special Grounds and Reasons of such Exemption." But he ought to have told us, not that the Incumbent insists upon *Common Right*, which we all know; but *why he should* insist upon *Common Right*, which the *wisest* of us cannot account for. What is admitted in Courts of Judicature, ought not to determine us. The Question now is, *What should be allowed by a British Legislature?* And though it is certain that when a Proprietor of Lands pleads an Exemption in *Westminster-Hall*, it rests upon him to prove it, yet it may well be considered in a *House of Commons*, whether that Proof ought to rest upon him.

If the *Case of Tythes* be fairly and justly considered, many Objections will arise against its being a Case of *Common Right*; which must in Parliament be *tryed*, not by *Common Law*, but by *Common Sense*. There can be no Right in the World but that which arises from Nature, and the Reason of Things: Shew us from *thence* that the Clergy have a Right to Maintenance
from

from the Laity, and we will then allow that the Laity ought to maintain them. No Obligation can be laid on any one, unless an Equivalent really received creates it. We do not owe the King himself Allegiance, but on the Terms of equal Protection; and we cannot owe the Clergy *Tythes*, but on the Terms of an *Equivalent*. Where then is this Equivalent? Or, why should the Clergy *exact Tythes*, as arising to them of *Right*?

No Man by Conscience, or for his own Happiness, or for the Public Good, is obliged to conform to any Church, or advise with any Priest, but such as himself approves. On the contrary, to compel his Conformity against his Opinion, is against all Conscience, against his own Happiness, and the Public Good. If he does conform to that Church of his own Choice, it is for some Advantage; and so far as he conforms and enjoys that Advantage, so far is he under an Obligation, and owes a Maintenance to that Clergy, from whom he receives an Equivalent. But if he cannot and does not conform, what Advantage does he receive? What Obligation is he under, or what Maintenance does he owe to any one? It may be necessary that *Priests*, as well as *Physicians*, should be provided, for the Cure of *Souls* as well as of *Bodies*. But would it not be very unreasonable that the Law should oblige us to give *Physicians retaining Fees*, and compel us to maintain them, by paying them when we do not want them, as much as when we do want them? Is it not sufficient that they are paid when they are applied to? And is there any Difference between *Physicians* and *Priests*, which creates a greater Obligation to the latter than to the former?

Men having a natural Right and a legal Toleration to choose their own Religion, do often associate themselves in particular Churches, and dissent from the National Sect, or established Church.

Church. Every Member of a *separate* Church stands obliged to support *his own* Pastor, whilst he resorts to him; and shall he also stand obliged to support a *parochial* Pastor, whom he never resorts to? Shall he not only pay the Priest whom he applies to, but likewise one whom he never applies to? By the same Rule, he might not only stand obliged to fee the Physician who attends him, but also one who never attends him. And might not the same Pretence be laid claim to by the Physician as by the Priest, that he whom the *State* shall choose, is as ready to undertake the Cure, as he whom the *Patient* shall choose?

If this be the Case, I do not see how the Clergy can sue their Parishes for *Tythe* of *Common Right*, any more than that Physicians can sue for *Parochial Fees*. And therefore why should this be suffered to continue *Common Law*?

If then the Clergy have not from Reason and Nature a *Common Right* to *Tythe*, the *Laitie* have a *Common Right* to *Exemption*; and therefore when a Priest shall sue for *Tythe*, if the Parish plead an *Exemption*, the general Rule of Justice will be on their Side, and the Priest stand bound to assign the *special Grounds* and *Reasons* of his Pretence to *Tythe*.

The Reverend Prelate imagines, that "It cannot be supposed that the Proprietor or his Ancestors would pay for an Estate as Tythe-free, without clear Evidence that it was so; and therefore he ought at all times to prove that it is so." But every Man knows that in any other Case, a long Discontinuance of an Incumbrance will legally be an Avoidance of that Incumbrance; and therefore it is, that quiet Possession, enjoyed for a considerable Time, is a good Title in Law, whatever ancient Claim shall be renewed. This is well known, and is very reasonable; whereas the Power of the Clergy to demand and recover

ver Tythe of Common Right, against a long Enjoyment of Discontinuance, is neither well known, nor in any Degree reasonable. So that Men may very easily pay for Estates as Tythe free, in Case there hath been a long Discontinuance; and such a Purchase ought to be entitled to Exemption, just as it is in the Case of *Quit-Rents*; if they are long discontinued, they cannot be legally laid Claim to; for the Law supposes reasonably that they were discontinued, either because they were not due, or else by Agreement. And after a long Course of Time, Evidence naturally grows dark or deficient, in which Case the Law will not disturb Possession.

If the Law in *any Case* does allow Exemptions from Tythe, as it does in many, *why not in all?* Since if it is not an Injury to *one Incumbent*, that his Parishioners are exempt, it cannot be to *any*. And if it is a *Common Good* done to one Parish, it is of *Common Right* due to *all in the Kingdom*; which may well be considered by the Legislative Power.

All this having its due Weight, gave Rise to the Bill now depending in Parliament, by which the Proof of Exemption shall not rest upon the Proprietor of Land, who in many Cases hath no Title to the Land itself, much less to enjoy it Tythe-free, other than that which arises from *long and quiet Possession*: An Evidence sufficient at all Times; and indeed no better is demanded in any Case, *except where the Clergy are concerned*.

Instead of obliging the *Land-Owners*, as by the Laws in being they are obliged to prove a special Exemption, the Bill now depending enacts, that the *Clergy* shall prove a special Right to Tythe, it having been proved, beyond Contradiction, that they have not a *Common Right* by Reason or the Nature of Things.

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The *Reverend Prelate* pretends that this Proof ought not to lie upon them, "Because they come Strangers to their Parishes, unacquainted with what was done in the Time of their Predecessors, and not like to be assisted by the Parishioners, considering the Interest they have, and the Influences they are oft times under."

This will not by any Means bear the Test of Examination; for, a Clergyman must come into a Parish with a very odious Character indeed, that no Man will give him Assistance. It is very easy to know by *living Witnesses*, what hath been done within *forty Years* past by his Predecessors. And, let the general Interest or Influence be ever so much against him, some Persons will certainly adhere to him. If he be a worthy Man, he need not despair of *sufficient* Friendship and Assistance. If he be the worst Man alive, he will find *some Persons* for their own Profit, assiduous to give him Informations, and to court his Favour; nay, if deserted by all Men, still he may file a *Bill of Discovery* in the *Court of Exchequer*, against whom he pleases; and can never want *Evidence*, if he is not without *Right*: An Advantage which the *Prelate* prudently concealed, when he set forth their pretended Difficulties.

It is therefore *poultry Stuff* which hath dropt from this *Prelate's* Pen, to say, that *Receipts* which Incumbents give the *Land-Owners*, where there is a *Modus* or an *Agreement*, remain in the Hands of those *Land-Owners*; and that succeeding Incumbents cannot have Recourse to such Receipts. He very *untruly* says, that Incumbents cannot compel such Receipts to be produced: If they are minded to sue for *Tythe*, they may at the same Time sue for *Evidence*; and on the Discovery of the latter, they effectually may recover the former. But where the *Tythes* are paid in kind, the *Churchwardens*

wardens or *Officers* who collected them, may be summoned on any Tryal, and give an Account upon Oath, *viva voce*, what hath been the Usage. All which the *Reverend Prelate* conceals, nay denies; which in one so well acquainted with these Affairs is inexcusable, and in one of his *holy Character* is much to be lamented.

As to *Rectories Improprate*, leased by *Colleges, Bishops, Deans and Chapters*, which may continue by such Leases in particular Families more than *Forty Years*, and by the *Lessees* maybe let to Under-Tenants *Tythe-free*, in which Case there will arise a *perpetual Exemption*: I dare undertake to answer for the Wisdom and Circumspection of those Bodies or Persons thus possessed of *Impropriations*, that if this Law shall pass, they will never grant any Lease allowing the *Lessees* to let them *Tythe-free* forty Years together, or in any manner whatever which may create an Exemption. Ecclesiasticks are not used to be either so *negligent* or so *disinterested*, nor are they likely to be so, especially after *this Bishop* hath favoured them with so timely a Precaution.

Some of the Religious Orders, particularly the *Cistercians*, were, it seems, privileged from paying Tythes of Lands, *whilst those Lands continued in their Occupation*. When the Crown resumed those Lands, they were granted to be held in *such manner* as those Monks enjoyed them; and yet *the Bishop* complains that if this Bill take Place, the Exemption will not cease, tho' the Grantees do not occupy the Lands *themselves*, but the Lands are occupied by a Tenant. Neither can I see *why it should*, it being much more due to *industrious Landed Men*, than ever it was to *lazy, idle, superstitious Monks, the Vermin and Locusts of Mankind*.

“ Warrens, Woodlands, and LANDS THAT HAVE
 “ LAIN WASTE, says *the Bishop*, from all which Tythe
 “ would be due, if converted into *Arable or Pasture*,
 “ will be entitled to a perpetual Exemption by this
 “ Act. C Is

Is this then an Argument *against* the Law proposed? In my humble Apprehension there can be none stronger *for* any Bill whatever. It is well known that the WASTE LANDS of this Kingdom would be of infinite Value, if converted into *Arable* or *Pasture*. They would be an Addition to the Wealth of the Kingdom, of greater Value than the *present* national Debt. And can there be too great Encouragement given to improve them? Or can a greater Discouragement be in the Way, than that, after so much Labour and Expence to improve them (wherein the Clergy bear no Share) they shall in a *few Years* Time, just when they become of any Value, fall under the heavy Incumbrance of *Tithe*, and pay a *tenth Part* of their *neat Produce* to the Clergy, which is a *perpetual* LAND TAX on the Kingdom of TWO SHILLINGS in the Pound, and, without improving *waste Lands*, amounts to at present above a *Million per Annum*? Who would improve *waste Lands* on such Conditions?

This *charitable Prelate*, who thro' the whole Argument is so kind to the *Laity*, as every where to suppose them *Rogues* and *Thieves*, continually and unanimously *cheating* the *poor Clergy* of their *righteous Dues*; I say, this very *charitable Prelate*, comes now to bespeak our Candour for the Clergy, and exhorts us to believe, “ That *they are unaccustomed to secular Affairs, are more liable to be imposed on than others,*
 “ *and some of them not so careful of the Rights of the*
 “ *Church, as might be wished. Some, he says, are unac-*
 “ *tive and sedentary, and care not to engage in trou-*
 “ *blesome Law Suits: Others are not in Need, and*
 “ *foreseeing the Uneasiness occasioned by Contests,*
 “ *sit still and acquiesce: Others are poor, and not a-*
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 “ *Many come in under the Restraint of general Bonds*
 “ *of Resignation, with heavy Penalties, and so*
 “ *must go on to indulge the Estate of the Patron, or*
 “ *be ruined: Many Livings are given to the Sons*
 “ *or near Relations of Patrons, which creates a nat-*
tural

“ tural Disposition to be respectful to the Estate of
 “ the Family; and if others also do not the same,
 “ they are sometimes thought ungrateful for the Fa-
 “ vour of their Presentation.” This is the general
 Case of the Clergy, in the *candid* Bishop’s Account.

Those who have nothing to gain by *flattering the Clergy*, may possibly give another Account of them. Who, in the *Name of Modesty*, would think them *unacquainted with secular Affairs*, that sees them so busy in Shoals at *Westminster-Hall*, so constant at *Levees*, so assiduous in *Drawing-Rooms*, and so ambitious for *Power*? Is the Presentation to a Living to be considered as a *Spiritual* or a *Temporal* Call? And when we see the whole Body study the Gospel for the sake of *so much a Year*, who can say that the good Men are *wholly unacquainted with secular Affairs*?

Would any Man imagine from the Argument now under Consideration, that *the Bishop* who framed it is *one of the Heads of an Order, unacquainted with secular Affairs*? I cannot but do him the Justice to say, that it is hard to decide, whether he shewed more Acuteness in Defence of the *Christian Religion*, or the *great Case of Tythes*?

No Man would think from the *Clamour and Outcry* which *all* of them make against this Bill, that *they are more liable to be imposed on than others*. No Man would think it who runs over the *Lists* hanging up in the *Exchequer-Office*, of Causes to be heard in that Court. Nor did any Man ever come among *two or three Priests* at any Time, but their *Tythes* and their *Dues* made a Part of the Conversation. Let any one go to *Child’s* or the *Chapter Coffee-House*, whenever he pleases, and he will constantly experience the Truth of this Observation. If Gentlemen recollect the Behaviour of the Clergymen in their several Countries, they will find that the *Necessities* of some, the *Avarice* of others, and the *Luxury* of many, continually put them on *racking and squeezing* their Parishioners: That those who seldom reside on their Liv-

ings, are out of the Reach of Uneasiness occasioned by Exactions and Contests: That those who haunt Levees, and follow great Persons, and aim at Preferment, cannot otherwise support the Expence of coming to Town, and living far distant from *their Cures*, but by *Extortion* and *Law-Suits*: That *young Clergymen* in small Livings hope for great ones, and do not much regard the Ill-will of Parishioners: That they have *all* the same Appetites which other Men have, and having more Power, do more to gratify their Lusts: That having been bred expensively in Universities, they *will* frequently live above their Incomes; and spending all and more than all, make their Parishioners eternally uneasy, and leave their Families *certain* Beggars. There is no Man alive of any Experience, but hath seen numberless Instances of these Practices. And how such Men as these can be described as *wholly unacquainted with secular Affairs*, or *more likely to be imposed on than others*, cannot possibly be done, without the Help of this Bishop's *astonishing Candour*.

I will be so just to the *Reverend Prelate* as to admit, that *some* among the Clergy are *sedentary* and *unactive* Men; nay, I will allow with Pleasure, far from being unduly prejudic'd against their Order, that *some* among them are likewise *disinterested* and *humane*. Such may sometimes *wave* their *legal Rights* rather than *engage* in *Contests*. No Man of Sense will misrepresent any Man, or Body of Men; but to say, that this Order hath a greater Proportion of such Persons than falls to their Share, compar'd with the Mass of Mankind, is *gross* and *fulsome* Flattery; I might say *downright Falshood*, had I not some Concern for the *Episcopal Character*.

We all know what *Human Nature* is, and that the *unactive* or *sedentary*, the *disinterested* or *humane* are very *few* in Number, compar'd with the *Multitude* of *ambitious*, *mercenary* and *oppressive* Men: indeed most Men are such, if favour'd by *Power* or *Opportunity*;

nity; neither is there any way to make them otherwise, but by allowing them as *little Power* and as *few Opportunities* as possible. Wherein doth the *Papist* and *Protestant Clergy* differ but in this, that the former, being allowed by Law greater Scope for *Knavery* and *Thievery*, do much more *cheat* and *plunder* the People, while the latter, having *less Law* on their Sides, are *honest*, at least *harmless*, in Proportion to the Restraints upon them; as indeed are the Bulk of Mankind, which all will allow who have much conversed among them.

This being the Nature of *Men*, and consequently of *Priests*, who are at no Time *better*, but are very often *worse than other Men*, having greater *Latitude* of doing Wrong, having their *Holy Orders* to command Respect, and their *Sacred Character* to cover much Reproach; having also the *awful Name* and *Word of God Almighty* to make use of for the Advancement of *worldly Interests* and *selfish Views*; with what Pretence of *Candour* or of *Honesty* can any one describe them to be Men *wholly unacquainted with Secular Affairs*, and more likely to be imposed on than other People? Or how can it be suggested, that thro' this *Excess of Grace* and *Virtue* their legal Rights are in greater Danger of being lost, by the Limitations of *Suits at Law* designed in the Bill depending, than those Rights belonging to the rest of Mankind are, under the same Restrictions.

This *Reverend Prelate* imagines, that many Incumbents of Livings neglecting their own Interests thought that they did no Wrong, as they surmised that their Successors would have an easy Method to recover their Rights on the *general Rule of Common Law*, never suspecting that the *Legislative Power* would at any Time question the *Equity* and *Justice* of that Rule, which, he says, was *part of Popery* itself, and was never once struck at since the *Reformation*.

Must

Must then the *Folly* and *Dotage* of a few supine *Ecclasiasticks*, who never imagined that we should question what was *equal* and *just*, debar us from the Enquiry, and foreclose the Question for ever? If a *general Rule* is not built on *Equity* and *Justice*, it is against the *general Interest*, and ought no longer to be a General Rule, whoever have been mistaken in their *simple Conjectures*, or whatever *private Men* may be damaged in *personal Interests*. Let it also be consider'd, that Custom and Usage, the more *ancient* it is, the more liable is it to be *corrupt*, and therefore more fit to be *examined*. The *Reformation*, however happily obtained, or beneficial to us, left many Errors and Enormities unreformed. Besides, new Crimes and Corruptions naturally arise in the Course of Time, which may make Reformation as necessary now as it was two hundred Years ago. Corruptions, which if they continue or spread, will one Day make it just the same Thing as if no Reformation had ever been at all.

Those who reflect on the Rise and Progress of the *Reformation*, must know, that the Passions of *Harry the Eighth* had a much greater Share in that Work than the Interests of the People; and however the latter demanded it, yet it was done to gratify the former. No wonder then that a Prince, whose principal View was to establish himself in the Place and Power of the *Pope*, should suffer so many grievous Parts of Popery to continue. And tho' a due Regard to the general Interest would have induced our first *Reformers* to abolish *Tythes*, yet the political Views of the Prince prevented it. He meant to make the Clergy as useful and subservient to himself as they had been to the *Roman Pontiffs*. Besides, he had many voracious *Favourites* to gratify; and instead of remitting these *Tythes*, or this *Decimation Tax*, to those on whose Lands it was raised, which indeed was the *just* and *equal Measure* that
ought

ought to have been pursued, he still left the Tythes subsisting; some whereof were given to *Laicks*, others to *Priests*, *Colleges*, *Chapters*, *Deanaries*, and *Bishopricks*, whilst those which were thus given to *Laymen*, have since been made liable to become *Ecclesiastical Endowments*, notwithstanding the Statute of *Mortmain*; which is effectually taken away, since a *Corporation* is established with perpetual Succession, and a Revenue which will in Time buy up all the Improvements; nay, within the Space of about an hundred Years, will purchase half the Lands in the Kingdom, in which Case we shall be very little the better for the *Reformation*.

The *Reverend Prelate* hath, by the most laboured Account he could possibly devise, endeavour'd to shew how the *Right of Tythe* may be universally lost to the Clergy, by the Operation of the Law propos'd. He imagines that some are *supine* and *indolent*, others *clogg'd* and *restrain'd*, as also, that many are *byass'd* by their Family Relationships, Dependencies and Friendships; which, if it were all true, would be far from proving the Point he advances; for very few Men enjoy a Living *forty Years* together, the *indolent* give Place to the *active*, the *disinterested* to the *avaritious*, a whole Generation is chang'd, and the Face of the World altered in *thirty Years* or less. So that Things are likewise varied, and the Right of Tythe will *often be asserted*, very *seldom neglected*, and probably *never lost* through any Operation of the Bill depending.

But supposing that what he surmises was really true; supposing that there would be, in Consequence of such a Law, a *gradual Diminution of the Maintenance of the Clergy in every Generation*, if thus they be deprived of claiming Tythe of *common Right*, as in Truth they cannot ground their claim upon Common Right, whatever they may do by *Fiction of Law*: Why what then? How would this affect Society, but by lessening the Numbers and reducing the Power of the Clergy

Clergy, very much to the Advantage of a People who desire to improve their Freedom and Happiness? It would draw great Numbers of lazy, idle, unprofitable Men into the Ways of Industry, and make them useful to their native Country. It would ease the Landed-Interest of a grievous and oppressive Burden. It would make those Clergymen, who should administer the Gospel, more *faithful* to the Charge, and *dependent* on those from whom they ought not to have *separate* Interests.

Yet, if the Clergy must be maintained in a State of *Independency* and *Domination*, if they are to have established Revenues for their Maintenance, why must these be exacted in *Tytbe*, the most grievous of all Impositions? Why must they take from the poor industrious Farmer, who hath but one Hundred Pounds *per Annum* (the Neat Produce of his Land) to live on; why must they *annually* take *Ten Pounds* of the Money, which, in a few Years, if the Use of it was allowed him, would provide for a *Child*, and thereby give a *useful Member* to the Commonwealth? This is the more intolerable Grievance, considering that *some Bishops*, who *cant* and *whine* for the Maintenance of their Clergy, do at the same Time possess *immense Revenues*, more than sufficient for the *Apostles Successors*, and much more than any *Apostle*, or indeed *all of them put together*, would ever have pretended to. Let them shew Examples of Care for the Clergy, not in *Words*, but in *real Acts* of Charity. Let them propose the Augmentation of *poor Livings*, by the Division of *exorbitant Church Endowments*. Let them quit their *Anti-Christian Cures* in *Commendam*, and live with but half the *Humility* and *Modesty* of the *Holy Apostles*, they need not *tax* the *industrious Landed Men* on Account of *Clergy Maintenance*.

Suppose a *Bishoprick* of 5000*l. per Annum* (and such there are in this Kingdom) should be *reduced* to 500, how many Parishes would the Residue, duly distributed, honourably endow? Throw also into

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HOTCHPOTCH, *Deanaries, Chapter Lands, Prebends, and Sine Cures*; what a *Fund* would this raise for the *Cure of Souls*, without one Farthing raised in *Tytbe*, only *some Thousands per Annum abated in Spiritual Luxury*?

It may be said, how could *Bishops* in this Case support the Expence of following *Courts*, and coming up once a Year to *London*? But may it not be ask'd, *What they have to do there*? Does the *Holy Ghost* call them thither? Besides, if *Episcopal Offices* were not worth more than 500*l. per Annum*, we should seldom see *Bishops Slaves and Tools*, the *Drudges* of Government, or *Attendants* on Great Men.

Some *Prelates* may think it very hard, that they should contribute to the Maintenance of their *Inferior Clergy*, who, perhaps, are not below them in any kind of Merit; yet this will be much more reasonable than some things which have been talked of as practised, even *since the Reformation*. Particularly, suppose it ever happened that a governing *Prelate* was *quarter'd* upon *Bishopricks* which he had recommended to, and received *Simoniackal Pensions* from those whom he had raised to the *Mitre*, by way of Acknowledgment for their Promotion; I believe that such *ungodly Stipends* would better have been employed to support the *Cure of Souls* than to gratify such *Prelatical Avarice*.

However, if nothing but *Tytbe* will please the Clergy for their Maintenance, I am sure that it ought to be considered, whether we and our Posterity are to be *always at Strife* with *these Messengers of Peace*, and, whether it is not worthy the Care of a *British Parliament* to lay some *Restraint* on *Suits for Tytbe*, as well as on *Actions* arising from *Civil Contracts*, whether they respect *Lands* or *Money*, real or personal *Estates*, all which are already under the *strictest Limitations*.

It hath not been from any *visible* Disadvantage which the Clergy lay under to *know* and *prove* and *assert* their Rights, that the *Laws of England* have left their Suits without Limitation or Restraint. No Men more diligently study, or more vigorously assert their *pretended* Rights than the Clergy have always done. But it hath been owing to the *Interests which they cultivated in the Courts of Princes*, the *vile Drudgery* formerly done for Men in Power, and the *Influence* which they thereby gained upon them, that the Clergy have been favoured in a Manner which ought not to be approved, and that they have not hitherto been placed *on the same Foot with the Laity*.

The *Reverend Prelate's* Objection to the Preamble of the Bill, for that the *Statute of Edw. the Sixth*, on which it is *in Part* founded, doth not really create a Prescription of *Forty Years* as a limited Time to sue for Tythe in: I say, this Objection amounts to nothing at all; for it is *eternal Truth* and *good Sense* on which we would found this Bill, as indeed all Laws can have no other good Foundation. And in Case that the *ancient Statute* created no Prescription, yet the *Reasonableness* of such a Prescription will be the same as if it had been created a *Thousand Years* ago.

And allowing the Meaning of the Retrospect in that Statute of Forty Years past, allowing it to be as he would have it understood, *That in the Infancy of the Reformation many of the People were unwilling to pay Tythe to the Protestant Clergy, and did not believe they had any Title to it on which Account this and other Acts were made, to exact Tythe*;

Let us consider this Matter freely: Does it not shew the *good Sense* of our Ancestors; and that as they were promised a *Reformation of Religion*, they justly looked for it in a *Deliverance* from

from Religious Burdens? Else, in what were we the better for any Reformation at all? The Clergy might have still gone on with *Thousands of Pater-nosters*, and with *Ten Thousands of Ave-Marys*: They might have burnt *Wax Candles*, and have worshipped *consecrated Wafers*. These did no Body any great Harm; but it was the *Exaction of Money* from the People, with *Spiritual Censures* and *Temporal Coercion*, which this Bishop is so fond of, that were the *very Essence of Popish Tyranny*; and if these were still to be continued, the *Reformation* was all *Mockery*, and the *Protestant Religion* very little worth. So that the Bishop hath done no great Honour to the *Church of England* by explaining the *Meaning* of those *Laws*.

He then tells us how *Religious* the People were in paying *Tythe* to the full before the *Reformation*. This was owing to their *Ignorance* and *Superstition*; but he himself allows a very different Turn when their *Eyes* were opened, which is the Misfortune he complains of; and thus the Point he drives at is, that amidst the Blessings of *Light* and *Knowledge*, we should be the same Religious Dupes and Bigots as we were in our State of *Darkness*, and under *Spiritual Bondage*.

One Grievance to this Prelate is, that the *Quakers* plead *Conscience* for not paying *Tythes*, which, I think, they have much better Ground to do than the *Clergy* have to plead *Divine Right* for exacting them: Again, it seems that *Roman Catholicks* think them better apply'd to *Popish Pastors* than to *Protestant Incumbents*; which surely is but reasonable, since the first are their *Spiritual Guides*, and the last are Men, whom they have nothing to do with, as also Men who do nothing for them. Now, if this Bishop will shew, why *Popish Laymen* ought to pay *Tythe* to *Protestant Priests*,

I will shew him by the same Demonstration, that the *Protestant Laity* ought to pay Tythe to the *Popish Clergy*, and that the *High Priest* of the *Jews* may as well claim Tythe from *all the People of the Gentiles*.

But the *Bishop's Master-stroke* is still to come. He says, "*That the People are not easily brought to feel the Force of that unanswerable Argument for the Clergy's Right to Tythe, That they (the People) or their Ancestors, purchased no more than Nine Parts.*" In which the *Reverend Prelate* is most amazingly acute; tho' he ought to have consider'd, that with the *Nine Parts*, which were the Original Purchase, the *Care of a Tenth* came into our Hands to till and manure, to sow and to reap, for the sole Use and Benefit of the Clergy, without any adequate Consideration received; and thus the Clergy have not only the neat Produce, but the Sweat of our Brows gratis; not only the Crop, but also the Toil and Expence of producing the Crop. So that here is an Article which runs away with some of the Parts which we really purchased, making our Share less than Nine, and the Clergy's pretended Tenth about a FIFTH Part of the Estate; for the Expence of Cultivation is always, at least, equal to the Value of the Land, and very often more in Value.

The *Bishop* therefore might indeed observe, with much Propriety, *that the People cannot easily feel the Force of his unanswerable Argument*, whilst the Culture of the Clergy's Tenth is such a Dead Weight on their own Nine Parts, which the *Bishop* himself allows that they or their Ancestors purchased. I mightily love this *Bishop* for his unanswerable Arguments.

Besides, if this is considered as an Incumbrance, taken along with the Bargain; if it is looked on as a Customary Service attending the Tenure of Lands

Lands, and that they who take the one, do also consent to the other: Yet if this be the Case, what a blessed Condition are the *People of England* in, That the Clergy who bear no Proportion in Number to the poor industrious Laity, that these worthy Disciples of the meek, the humble, and the suffering Messiah, that they have no less than a **FIFTH PART** of all the *Lands of England*, which they modestly call by the Name of *Tytbe*; and which they expect should be allowed them to hold and possess, even *without the just Limitations and Restrictions*, which all other Lands whatever are subject to by *Law*; thereby making their *Fifth Part* devour the *Fruit and Produce* of our four Parts, through the Plague and Expence of *everlasting Law-Suits*, which are, for want of Limitation, entailed upon us and our innocent Children?

If the *Reverend Prelate's* Argument be allowed that the Clergy's *Right of Tytbe* is no Grievance to the People, because that they or their Ancestors, *as he says*, paid for *no more than nine Parts*: Why then the *Land-Tax* is no Burthen on the People, for since that Tax hath been an *Annual Rent-Charge*, there have been no Purchases made wherein it hath not been allowed for. And thus those Persons who bought their Lands under this Consideration, have no Right or Pretence ever to be discharged from it. Insomuch that if it should continue till all our Lands have changed their Owners, in the way of Bargain and Sale, why then the **LAND TAX** must become, by *this Bishop's RULE OF RIGHT*, an *everlasting Incumbrance on ALL the Lands of England*, and never ought to be taken off or released by the *Legislative Power*; which however it be a Doctrine of equal Weight with the *Reverend Prelate's* unanswerable *Argument*, yet notwithstanding this, should any Man advance it among us, I leave it to the People to consider how such a Man ought to be treated.

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In *Popish* Countries where the *Rights of the Clergy*, as they are called, are a still greater Rent-Charge on the People, there is still the same *unanswerable* Argument for their Allowance. And thus, whatever Incumbrance or Burthen, however grievous, unjust, or oppressive, obtains upon the Lands of the People, whether by *Usurpation* or by *Consent*, induced either through the Necessities of Times, or the fraudulent Arts of Deceivers, such Impositions, by this Rule, are never to be removed; because, in a Course of Time it will be objected to the People, that they or their Ancestors paid for *no more than the unincumbred Parts of their Lands*. Hence in all the Parts of *Europe* where *Superstition* prevails, Property is become wholly engrossed by a few contemptible *Miscreants*, and the greatest Part of the People eaten out of their *Estates*, nay excluded from ever retrieving them, by a *Succession* of *Ecclesiastical Caterpillars*, who impiously call themselves, *Successors to the Apostles*. This too will one Day be *our own Case*, if we allow of such *spiritual Usurpations*, and of such *unanswerable Arguments* for their perpetual Establishment.

Publick *Resumptions* and *Agrarian* Laws, let the Execution of them be ever so difficult, are indispensably due to the Body of the People, when such *intolerable Usurpations* have been made in Prejudice to their Rights. Without such *Resumptions* no Reformation can ever be accomplished, either in Church or State: They are the only Remedies which a *plundered Nation* can at any Time have Recourse to. And if to resume those Grants or Endowments which are so exorbitant and oppressive, if to resume them *all at once* would be an Enterprize of too much Difficulty, as it would meet with fierce Opposition from interested Parties, and be attended with various Hazards

zards, why then, *the least* that ought to be done in this Case, is, by some Method, to create a gradual Resumption, which may attain the same good End, with equal Certainty and less Inconvenience. When *all the Lands of England* were divided between *Church-Men* and *Temporal Peers*, the *Commons* being wholly in a *State of Vassalage*, without any Share of Property: In this Case the Kingdom cried aloud for a *general Resumption*; and though it was found impracticable, thus to divest the whole Body of the Nobility of their Estates, and deprive them of their Possessions *all at once*, yet was a happy Expedient devised which had that Effect in a very small Time, without the Inconvenience. The Lords were allowed to alienate their Lands at their own Discretion; and thus their Possessions past into the Hands of the Commons. This was the first Attempt to make us a free People; and to its Success is entirely owing all the Blessings we enjoy. If then the *Estates of the Clergy* can be made subject to any Regulation, which will occasion the *same Diminution* of Ecclesiastical Riches, we shall thereby compleat the Happiness we are born to as *Englishmen*, and be as fortunately delivered from *Spiritual Usurpations*, as we were from the *Power of the Barons*. This too by a gradual Resumption, infinitely better than any Attempt to resume *at once* all Possessions unjustly obtained, because such Attempts, however warranted by the strictest Justice, are always attended with much Confusion. And therefore, if it should happen, as the *Reverend Prelate* thinks it will, and hath taken great Pains to shew, that the *Bill* depending will create a *gradual Diminution of the Clergy Maintenance*; this being the same Thing with a *gradual Resumption of Church Lands*, will at all Times be the most powerful Argument which can be offered to the

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Representatives of a free People, in Behalf of this Bill, since those who oppose it allow, that its Consequence will be *that happy Reformation of things, which is so much desired, and cannot be otherwise effected*. Such an Argument as this I could never have looked for, *in the Shape of an Objection* against the Bill. But since the *Bishop* hath given us this Information; since he *presages*, that from this Bill the People will again recover their Lands, and deliver themselves from the Yoke of their *Spiritual Lords*; this Effect will have the utmost good Tendency that any Law can have; and for this Reason I hope that the Bill will pass.

The Foundation of the *Law proposed*, being thus established on the Good of the Kingdom, (the greatest Good, I think, that ever was attempted by any Bill brought into Parliament since the *Reformation*) we shall find it easy to explode ~~the other~~ Objections which the Bishop has offered, and which I shall consider in the same Order that he has left them in.

One great Pretence of this Bill is, he observes, *Loss of Evidence* to prove Exemptions. Now, he says, that *Families* are generally supposed to be very careful to preserve such Evidences; which is not true, neither is it possible that they should be preserved, considering the *infinite Accidents* which have happened since the *Reformation*. How much Evidence did the Devastations of the *Civil War*, the *Fire of London*, and other *publick Calamities* deprive us of? How *deficient* are the *Records* in the publick Offices? Even *Corporations*, where the Care of Estates is carried on in *perpetual Succession*, have lost many of their Grants; and what can *private Families* be supposed to save, with all their Care and good Management? Look into the *two Universities* themselves. In *Oxford*, the Lady
Margaret's

Margaret's Professor of Divinity is paid his *Stipend* out of the *King's Civil List*, though it be no *Royal Institution*. Grants of Lands, and even Lands themselves, are lost in the Course of Time: And thus the Foundations of *private Persons, Lectures, Professorships, &c.* which had no Relation to the Crown, throw themselves at last on the *Royal Bounty* for their Support, when their Evidences are lost, and Time hath destroyed their best Titles.

How many Estates of mighty Value have no other Title in the World to produce, than *ancient and quiet Possession*? How many *Church-Lands* are at this Day in wealthy Families, who have held them ever since the Time of *Harry the Eighth*, yet cannot find an *Inch of Parchment* in the World to prove a Grant from the Crown, notwithstanding that the *candid Bishop* will allow the *Laity* no Consideration for their *Loss of Evidence*?

The *Bishop* allows, a Freedom from Law Suits, and the Enjoyment of Peace, to be very great Blessings; but it seems that the *Laity* are such *guilty Wretches*, that they will not suffer the *poor Clergy* to enjoy them, without giving up the Subsistence of themselves and their Families. This he proves by such *worthy Witnesses* as the *Practitioners* in the *Court of Exchequer*; who it seems, on a nice Calculation, have found that the Suits where Prosecutors for *Tytbe* have failed, bear no kind of Proportion to those Instances where they have prevailed. — Now if this was ever asserted by those Practitioners, which I very much doubt, it is manifestly calculated only for *private Ends*; and is in Truth an *artful Snare* to draw the Clergy into that Court, and make them run mad with the Thoughts of increasing their *Tytbe*. Nor is it to be wondered at, that these *ingenious Practitioners* can sometimes make use of their *Invention* for

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the Good of their Calling, when their *spiritual Clients* so frequently give them such *laudable* and *right reverend* Examples.

Thus it seems that all the *Broils* and *Breaches* of *parochial Peace*, are the Fruits of *Lay-perverseness*; so far are the *Clergy*, in the *Bishop's Account*, from being justly chargeable with *Multitudes of Prosecutions*, or with those which have been deemed either *frivolous* or *vexatious*; I suppose he means that *his Oracles*, these *honest Practitioners*, never deemed that to be *frivolous* or *vexatious*, which they found *very profitable* to themselves: And I dare answer for *their Candour* in every Case of this Nature.

However that be, I must still take Leave to make use of *my own Observation*, and I appeal to the Experience of all who are *less interested* in Ecclesiastical Suits than the *Bishop*, or the *able Practitioners* of the *Court of Exchequer*, whether every *Gentleman* of the *Long Robe* hath not seen *numberless* Prosecutions brought by the *Clergy*, where they *shamefully miscarried*: And I myself have made one Remark on many of their *Orphans* whom I have known, that they often became *helpless* through the *Luxury*, but much more often thro' the *Law Suits* of their Fathers; which gives the *Church of England* no great Credit from her *Offspring*, as the *Wisdom of modern Zealots* hath mightily *affected* to call them.

Doth not every one remember *Doctor BENNET*, late of *Cripplegate, London*? In how great Esteem was this *orthodox Divine* among his *reverend Brethren*? And what was he ever remarkable for but *Suits for Tythes* and *endless Strife*, with a *Parish* where his yearly Income was many *Hundred Pounds*, which he wanted to augment only to *two or three Thousands*? If he had succeeded, what would have been the *Consequence*? Why, the *Living* would have

have afterwards been tacked to some *lean Bishoprick*, and held in *Commendam* by some *lazy, luxurious Prelate*, to the equal *Benefit of the Parish*, the *Reputation of the Church of England*, and the *Glory of the Christian Religion**. As he did not succeed, he became a *Beggar* in the midst of *Plenty*; and his *poor Widow*, like too many other *spiritual Dowagers*, lives on the *Alms and Hospitality* of her *Friends and Relations*.

I have thus examined the whole *Argument* against the *Bill*; an *Argument greatly laboured*, not a little *artful*, very *fallacious* in its most plausible *Appearances*, and grounded on *notorious Falshoods*, where its *Foundations* are boasted to be impregnable.

The *Clergy* have so long sculked behind the *Law*, that it is *Time* they should now come to the *fair Test of Reason*: They have often told us, that they claim their *Right from Law*, and that *the Law* gives it to them; let them now shew with what *Equity and Justice* the *Law* should give it them, or else the *Legislature* that gave, may possibly *take it away*.

I am not so *sanguine* as to think that the *Success* of this *Bill* will be equal to the *Justice* of it; especially at this *Juncture*, when, to use the *Bishop's Words*, the *Interests of some*, and the *Influence of others*, are so well understood: But there may be a *Season*, when those *Persons* shall be laid low who are now most concerned in this *Affair*; a

* This Practice of holding *Living*s in *Commendam*, which those who hold can never take *Care* of, and sometimes never set their *Eyes* on, hath given so much just *Offence*, and been so highly resented, that the *HOUSE OF COMMONS* have provided special *Clauses* in all the *Acts* to endow the *New Churches*, expressly enacting, that none of those *Churches* shall ever be held in *Commendam*.

Season, perhaps, better suited to such a Design; nor shall it be said, that the Spirit of those Gentlemen who brought in this Bill died with them; if I am alive at that Time, and any ways able to revive or to promote it.

What I now have offered is very little meant to determine the Fate of the Bill; we know, I fear, where that hath been fixed already; but what I have here undertaken, was for the Glory of Truth, and for the Detection of Fraud. And so long as the one is understood, or the other seen through, those Gentlemen who formed this Bill, will share those Honours, which neither the Power of Courts, nor the Devices of Prelatical Iniquity, can ever take from their Characters in Life, or from their Memories in the Minds of Posterity. This Bill, whatever its Fate shall be, will ever be looked on as their illustrious Legacy, not to those Hireling Slaves, who profanely call themselves the Church, but to that which is much more worthy of tender Regard, even our dearest Country.

FINIS



